

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Harris Post Office
Harris, Iowa

Docket No. A2012-80

ORDER AFFIRMING DETERMINATION

(Issued March 9, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 23, 2011, Jeff Loring, Mayor of the City of Harris, Iowa (Petitioner Loring), filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Harris, Iowa post office (Harris post office).² An additional petition for review was received from Connie Hauenstein (Petitioner Hauenstein).³ The Final Determination to close the Harris post office is affirmed.⁴

II. PROCEDURAL HISTORY

On December 8, 2011, the Commission established Docket No. A2012-80 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

Also on December 8, 2011, the Postal Service filed the Administrative Record with the Commission.⁶ The Postal Service also filed comments requesting that the

² Petition for Review of the Harris Iowa Post Office Final Determination to Close/Appeal Docket Number 1366304-51345, November 23, 2011 (Loring Petition).

³ Petition for review received from Connie Hauenstein regarding the Harris, Iowa post office 51345, December 9, 2011 (Hauenstein Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1029, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 8, 2011.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing, December 8, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Harris, IA Post Office and Establish Service by Rural Route Service (Final Determination).

Commission affirm its Final Determination.⁷ On February 8, 2012, the Public Representative filed comments.⁸

III. BACKGROUND

The Harris post office provides retail postal services and service to 85 post office box customers. Final Determination at 2. Ninety-seven delivery customers are served through this office. The Harris post office, an EAS-11 level facility, provides retail service from 8:00 a.m. to 12:00 p.m., and 1:00 p.m. to 4:15 p.m., Monday through Friday, and 8:00 a.m. to 9:15 a.m. on Saturday. Lobby access hours are 6:00 a.m. to 9:00 p.m., Monday through Saturday. *Id.*

The postmaster position became vacant on March 26, 2010, when the Harris postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 2. Retail transactions average 18 transactions daily (19 minutes of retail workload). Post office receipts for the last 3 years were \$24,946 in FY 2008; \$25,831 in FY 2009; and \$21,516 in FY 2010. There are no permit or postage meter customers. By closing this office, the Postal Service anticipates savings of \$32,747 annually. *Id.* at 7.

After the closure, retail services will be provided by the Ocheyedan post office located approximately 6 miles away.⁹ Delivery service will be provided by rural route service through the Ocheyedan post office. *Id.* The Ocheyedan post office is an EAS-13 level office, with retail hours of 8:30 a.m. to 11:00 a.m., and to 12:30 p.m. to 4:00 p.m., Monday through Friday, and 8:30 a.m. to 9:30 a.m. on Saturday. *Id.* Lobby access hours are 7:00 a.m. to 9:00 p.m., Monday through Friday, and 7:00 a.m. to 4:00 p.m. on Saturday. Administrative Record, Item No.18. One hundred twenty-seven

⁷ United States Postal Service Comments Regarding Appeal, January 17, 2012 (Postal Service Comments).

⁸ Comments of the Public Representative, February 8, 2012 (Public Representative Comments).

⁹ *Id.* at 2. MapQuest estimates the driving distance between the Harris and Ocheyedan post offices to be approximately 7.5 miles (11 minutes driving time).

(127) post office boxes are available. *Id.* The Postal Service will continue to use the Harris name and ZIP Code. *Id.* at 6, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Harris post office. Petitioner Loring contends that closing the post office will have a negative impact on the Harris community in that it will harm local businesses and make it harder for the community to attract new businesses. Loring Petition at 1. Petitioner Hauenstein states that the Harris community needs its post office. Hauenstein Petition at 1. Petitioner Loring asserts that rural route service will not provide Harris residents with the required maximum degree of regular and effective postal services. Loring Petition at 1-2. Petitioner Loring also asserts that the post office is being closed solely for financial reasons. *Id.* at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Harris post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Harris community; and (3) the economic savings expected to result from discontinuing the Harris post office. *Id.* at 1-2. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Harris post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Harris post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Harris community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, the effect on the Harris community, economic savings, and the effect on postal employees. *Id.* at 12.

Public Representative. The Public Representative concludes that the Postal Service has followed applicable procedures, and that the decision to close the Harris post office is neither arbitrary nor capricious. Public Representative Comments at 5. However, she notes that, in the future, the Postal Service may want to review the Administrative Records and its comments in the proceeding for correction of possible inconsistencies which may be helpful in the Commission when it deliberates appeals. *Id.*

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On April 11, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Harris post office. Final Determination at 2. A total of 190 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 70 questionnaires were returned. On April 28, 2011, the Postal Service held a community meeting at the Harris Community Building to address customer concerns. *Id.* Seventy-two (72) customers attended. *Id.*

The Postal Service posted the proposal to close the Harris post office with an invitation for comments at the Harris, and Ocheyedan post offices from July 11, 2011 through September 11, 2011. *Id.* The Final Determination was posted at the same two post offices from November 7, 2011 through December 8, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service

will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. Harris, Iowa is an incorporated community located in Osceola County, Iowa. Final Determination at 6. The community is administered politically by a mayor and council. Police protection is provided by the Osceola County Sheriff. Fire protection is provided by the Harris Fire Department. The community is comprised of retirees, commuters and the self-employed. Residents may travel to nearby communities for other supplies and services. *Id.*; see generally Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Harris community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Harris post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-6.

Petitioners raise the issue of the effect on the community, stating that it will harm local businesses and make it harder for the community to attract new businesses. Loring Petition at 1. The Postal Service responds that there is no indication that the business community in Harris will be adversely affected by the post office closure. Postal Service Comments at 8. The Postal Service states that the returned customer questionnaires indicate that the residents who patronize local businesses will continue to do so after the post office closes. *Id.* at 7-8. The Postal Service contends that a community's identity comes from the interest and vitality of its residents and their use of its name and that residents will continue to use the Harris name and ZIP Code. *Id.* at 8-9.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Harris postmaster retired on March 26, 2010 and that an OIC has operated the Harris post office since then. Final Determination at 6. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Harris post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Harris customers. Postal Service Comments at 5. It asserts that customers of the closed Harris post office may obtain retail services at the Ocheyedon post office located 6 miles away. *Id.* at 5-6. Delivery service will be provided by rural route service through the Ocheyedon post office. *Id.* Harris post office box customers may obtain Post Office Box Service at the Ocheyedon post office, which has 127 boxes available. Final Determination at 2.

For customers choosing not to travel to the Ocheyedon post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioner Loring raises the issue of effective and regular service. The Postal Service responds it has concluded that Harris customers will continue to receive regular and effective postal services via rural route delivery to mailboxes. Postal Service Comments at 7.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$32,747. Final Determination at 7. It derives this figure by summing the following costs:

postmaster salary and benefits (\$44,279) and annual lease costs (\$1,600), minus the cost of replacement service (\$13,132).

The Harris postmaster retired on March 26, 2010. *Id.* at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Harris post office has been staffed by an OIC for approximately 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner Loring alleges that the Postal Service is closing the Harris post office solely for economic reasons. Loring Petition at 2.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Harris post office (revenues declining and averaging only 18 retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. Final Determination at 2.

The Postal Service did not violate the prohibition in section 101(b) on closing the Harris post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Harris post office is affirmed.¹⁰

It is ordered:

The Postal Service's determination to close the Harris, Iowa post office is affirmed.

By the Commission.

Ruth Ann Abrams
Acting Secretary

¹⁰ See footnote 4, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Harris post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on March 26, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Harris, Iowa and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since March 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, there is a discrepancy in the Administrative Record regarding the number of customers who are serviced by the Harris post office. The Administrative Record indicates that the Harris post office has a total of 304 customers, of which 85 are post office box holders, 97 are Rural Route delivery customers, and 122 are Intermediate Rural Route delivery customers. Administrative Record, Item No. 1 at 1, Item No. 8, and Item No. 44. However, the Proposal and Final Determination to close the Harris post office does not include the Intermediate Rural Route delivery customers. If the Harris post office serves 122 delivery customers, as noted by the Administrative Record, then most, if not all, did not receive a questionnaire regarding the potential discontinuance of the Harris post office, thus denying them an opportunity to present their views on the record. Therefore, the Postal Service did not adequately comply with 39 U.S.C. § 404(d).

The Administrative Record is also contradictory regarding the termination clause for the lease. The current lease expires on April 30, 2013, and Item 18 of the Administrative Record indicates there is no termination clause, while Item 15 at 1 notes a 60-day termination clause. The Postal Service should have recognized this discrepancy and resolved it in its determination. If there is no termination clause, it should note that any savings from the lease will not be realized for approximately 13 months. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Harris post office and should be remanded.

Nanci E. Langley